

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

MAURICE JACKSON,

Plaintiff,

vs.

Case No. 16-cv-00017-DRH

GUY PIERCE,

Respondent.

MEMORANDUM AND ORDER

HERNDON, District Judge:

Now before the Court is petitioner Maurice Jackson's motion to reconsider (Doc. 21). Technically, a "Motion to Reconsider" does not exist under the Federal Rules of Civil Procedure. The Seventh Circuit has held, however, that a motion challenging the merits of a district court order will automatically be considered as having been filed pursuant to Rule 59(e) or Rule 60(b) of the Federal Rules of Civil Procedure. *See, e.g., Mares v. Busby*, 34 F.3d 533, 535 (7th Cir.1994); *United States v. Deutsch*, 981 F.2d 299, 300 (7th Cir.1992). When, as here, the motion is filed within 28 days of the entry of judgment, whether the motion is analyzed under Rule 59(e) or Rule 60(b) depends upon the substance of the motion, not on the timing or label affixed to it. *Borrero v. City of Chicago*, 456 F.3d 698, 701-02 (7th Cir.2006).

Petitioner contends the Court erroneously concluded his claims could not be brought as a § 2254 habeas petition and should instead be brought as an

action under 42 U.S.C. § 1983. Accordingly, the Court construes the instant action as one under Rule 59(e) of the Federal Rules of Civil Procedure.

A motion to alter or amend judgment filed pursuant to Rule 59(e) may only be granted if a movant shows there was mistake of law or fact or presents newly discovered evidence that could not have been discovered previously. *Matter of Prince*, 85 F.3d 314 (7th Cir.1996), reh'g and suggestion for reh'g en banc denied, cert. denied 519 U.S. 1040, 117 S.Ct. 608, 136 L.Ed.2d 534; *Deutsch v. Burlington Northern R. Co.*, 983 F.2d 741 (7th Cir.1993).

The Court finds petitioner neither presents newly discovered evidence nor identifies a manifest error of law or fact. The motion argues the Court's decision is somehow inconsistent with decisions issued in other actions filed by the above captioned petitioner. Specifically, petitioner references *Jackson v. New et al.* Case No. 3:11-cv-918-MJR-SCW (filed October 12, 2011) (§ 1983 civil rights action dismissed in accord with *Heck* and *Edwards* because the challenged disciplinary procedure involved both segregation *and the loss of good time credits*) and *Jackson v. Dowdy et al.*, Case No. 3:14-cv-511-NJR-PMF (filed May 5, 2014) (seeking injunctive relief).¹ The Court has reviewed these actions and finds no inconsistency.

¹ Aside from this lawsuit, petitioner has filed at least 8 other lawsuits with this Court, 2 of which are presently pending:

1. *Jackson v. New et al.*, Case No. 11-cv-918 (filed October 12, 2011) (closed September 24, 2013);
2. *Jackson v. Hoffman, et al.*, Case No. 12-cv-233-MJR-SCW (filed March 14, 2012) (closed August 22, 2014);

Other arguments raised by the petitioner merely take umbrage with the Court's ruling. Petitioner has not demonstrated—and the record reveals—no basis warranting relief under Rule 59(e). The Court remains convinced of the correctness of its decision.

Accordingly, the Court **DENIES** petitioner's motion to reconsider (Doc. 21).

IT IS SO ORDERED.

Signed this 26th day of June, 2016.

David R. Herndon



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by Judge David R.
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3. *Jackson v. Sheperd et al.*, Case No. 12-cv-960-GPM-DGW (filed August 27, 2012) (closed July 16, 2013);
4. *Jackson v. Welborn, et al.*, Case No. 12-cv-961-JPG-PMF (severed from Case No. 12-cv-233 on Aug. 27, 2012) (closed November 3, 2015);
5. *Jackson v. Phoenix, et al.*, Case No. 13-cv-714-MJR-SCW (filed July 19, 2013) (closed August 14, 2014);
6. *Jackson v. Harner, et al.*, Case No. 13-cv-825-MJR-SCW (severed from Case No. 13-714 on Aug. 12, 2013) (closed July 25, 2014);
7. *Jackson v. Allsup, et al.*, Case No. 13-cv-920-MJR-DGW (filed Sept. 6, 2013); and
8. *Jackson v. Dowdy, et al.*, Case No. 14-cv-511-JPG (filed May 5, 2014)